

REMARKS

Applicant requests reconsideration and allowance in view of the foregoing remarks. Claims 1-60 are pending, with claims 1, 15, 16, 21, and 22 being independent. Claims 1, 14, 15, 16, 22, 35, 48, and 60 have been amended. Claims 21 and 49-59 have been cancelled.

Allowable Subject Matter

Applicant would like to thank Examiner Nguyen for indicating the existence of allowable subject matter in claims 1-20 and 23-48. See Office Action of May 5, 2005 at page 12. Applicant believes that claims 1-20, 22-48, and 60 are in a condition for allowance. Claims 21 and 49-59 have been cancelled merely to expedite issuance of a patent to the remaining claims.

35 U.S.C. § 112 rejections

Claims 1, 15, 16, 22, and 60 have been amended to overcome 35 U.S.C. § 112 rejections and are now believed to be in a condition for allowance. The Office Action noted that the use of phrase "such that" renders claims 1, 15, and 16 indefinite. Claims 1, 15, and 16 are amended in response, and now recite "wherein" instead of "such that," thereby obviating the rejection raised with respect to indefiniteness.

Claims 22 and 60 have been rejected because the Office Action asserted that the term "complaint" is "indefinite because the specification does not clearly redefine the term." See Office Action, page 4. Claims 22 and 60 are amended in response, and now recite "notification" instead of "complaint," thereby obviating the rejection raised with respect to indefiniteness. The support for "notification" is found in the Specification, pages 25-30. For example, "[t]o protect subscribers, the host system 20 is configured to receive notifications from subscribers regarding offensive content. In one implementation, the host system 20 includes a monitoring system 246 configured to receive notifications of offending content from subscribers and take appropriate actions in response." See Specification, page 25, lines 25-29.

In addition, claim 22 has been amended to depend from claim 13, and is therefore believed to be allowable by virtue of dependence from allowable claim 13. Claim 60 is also believed to be allowable by virtue of its dependence from claim 22, and, in turn, allowable claim 13.

Claims 4, 25, 38, and 50 have been rejected for indefiniteness because the Office Action asserted that it was “unclear what the storage path information [was] translated to.” See Office Action, page 4. This rejection does not appear to be properly grounded in 35 U.S.C. § 112, 2nd paragraph. The standard for being indefinite is whether the scope of the claim is ascertainable. The breadth of the claim is not to be equated with indefiniteness. See *In re Miller*, 169 U.S.P.Q. 597, 441 F.2d 689 (C.C.P.A. 1971). See also MPEP 2173.04. Because the scope of the claim is believed to be ascertainable, the reversal of the rejection of the claims is requested.

Claim 60 has been rejected for indefiniteness because the Office Action asserted that there was “insufficient antecedent basis for an online identity.” See Office Action, page 4. Applicant respectfully suggests that antecedent basis for “an online identity” is not required, because this is the first recitation of “an¹ online identify” in claim 60. In addition, examples of support for “an online identity other than the subscriber to the digital image” are found in the Specification: “[i]n one implementation, the host system 20 includes a monitoring system 246 configured to take different levels of action depending upon the nature of the offending content. Such actions may range, for example, from blocking the complaining subscriber from reviewing the offending digital image to deleting the digital image, canceling the offender's account, and alerting law enforcement authorities.” See Specification, page 29.

Other Amendments (of Applicant's own accord)

Claims 14, 35, 48, and related portions of the Specification, have been amended to correct a typographical error. These claims now recite “DES algorithm” instead of “DEC algorithm.”

¹ Emphasis added.

Applicant : Gary Tessman, Jr. et al.
Serial No. : 10/007,696
Filed : December 10, 2001
Page : 14 of 14

Attorney's Docket No.: 06975-
172001 / Communications 43

Other Issues

Claims 22 and 60 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 22 was amended to depend from claim 13, thereby obviating this rejection with respect to that claim. Claim 60 is dependent upon claim 22, such that the amendment to claim 22 renders this rejection moot with respect to claim 60.

Conclusion

Applicant believes the application is now in a condition for allowance, and respectfully requests such action. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

8/8/2005



W. Karl Renner
Reg. No. 41,265

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331